United Nations CAC/COSP/WG.4/2018/L.1

Conference of the States Parties to the United Nations Convention against Corruption

Distr.: Limited
7 September 2018

Original: English

Open-ended Intergovernmental Working Group on the Prevention of Corruption
Ninth meeting
Vienna, 5–7 September

Draft report

I. Introduction

1. In its resolution 3/2, the Conference of the States Parties to the United Nations Convention against Corruption decided to establish an interim open-ended intergovernmental working group to advise and assist the Conference in the implementation of its mandate on the prevention of corruption.

2. The Conference decided that the Working Group should perform the following functions:

(a) Assist the Conference in developing and accumulating knowledge in the area of prevention of corruption;

(b) Facilitate the exchange of information and experience among States on preventive measures and practices;

(c) Facilitate the collection, dissemination and promotion of best practices in corruption prevention;

(d) Assist the Conference in encouraging cooperation among all stakeholders and sectors of society in order to prevent corruption.

3. In its resolution 7/6, the Conference welcomed the work of the Working Group to facilitate the sharing of information between States parties and underlined the importance of the conclusions and recommendations of the Working Group at its meetings held in Vienna from 22 to 24 August 2016 and from 21 to 23 August 2017.

4. In its resolution 7/6, the Conference requested States parties to continue sharing information and requested the Secretariat, subject to the availability of extrabudgetary resources, to continue its work as an international observatory, including by updating the thematic website of the Working Group with relevant information.

5. In its decision 7/1, the Conference requested the Secretariat to structure the provisional agendas of the subsidiary bodies established by the Conference in such a way as to avoid the duplication of discussions, while respecting their mandates.

6. In its resolution 7/5, entitled "Promoting preventive measures against corruption", the Conference decided that the Working Group should include as the topic for 2018 the use and effectiveness of asset declaration systems and conflicts of

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interest. The topics for discussion at the ninth intersessional meeting of the Working Group, to be held in Vienna from 5 to 7 September 2018, will therefore be:

(a) Preventing and managing conflicts of interest (art. 7, para. 4 of the United Nations Convention against Corruption); and

(b) Asset and interest disclosure systems (art. 8, para. 5 of the United Nations Convention against Corruption).

II. Organization of the meeting

A. Opening of the meeting

7. The Open-ended Intergovernmental Working Group on the Prevention of Corruption held its ninth meeting in Vienna from 5 to 7 September 2018. The meetings of the Working Group were chaired by the Vice-President of the Conference of the States Parties, Vivian N. R. Okeke (Nigeria).

8. In opening the meeting, the Vice-President recalled 3/2, 7/5, and 7/6. She highlighted the importance of the meeting's interactive discussions and sharing of experiences in the prevention of corruption and introduced the thematic discussions on conflicts of interest and asset and interest disclosure systems.

9. The Secretariat underscored the importance of a comprehensive approach to action against corruption, emphasizing that the provisions of chapter II are essential to promoting transparency, integrity, good governance and education. The Secretariat further noted that the Seventh Sessions of the Conference of the States Parties, has emphatically reiterated the importance of these principles. It was noted that the Working Group, since its first meeting in 2010, had provided States with the opportunity to share good practices, lessons learned and expertise. The Secretariat further noted that the knowledge gathered through the Working Group had proved to be invaluable to national experts in both reviewing their own countries' implementation of the Convention and serving as reviewing experts in the second cycle of the Implementation Review Mechanism.

10. The Secretariat also introduced the documents of the meeting. The background papers on conflicts of interest (CAC/COSP/WG.4/2018/2) and on the use and effectiveness of asset declaration systems (CAC/COSP/WG.4/2018/3) had been prepared on the basis of the responses submitted by States following a request by the Secretariat for information. Those reports reflected the information received as at 18 June 2018 from 44 States. An additional 7 submissions were received after that date. With the agreement of the States concerned all of the submissions received had been made available on both the official website for this meeting of the group[1] and on the thematic website[2] of the Working Group.

B. Adoption of the agenda and organization of work

11. On 6 September, the Working Group adopted the following agenda:

1. Organizational matters:

(a) Opening of the meeting;

(b) Adoption of the agenda and organization of work.

[1] http://www.unodc.org/unodc/en/corruption/WG-Prevention/session9.html.

[2] http://www.unodc.org/unodc/en/corruption/WG-Prevention/thematic-compilation-prevention.html.

2. Implementation of Conference resolutions 7/5, entitled "Promoting preventive measures against corruption" and 7/6, entitled "Follow-up to the Marrakech declaration on the prevention of corruption":

   (a) Preventing and managing conflicts of interest (art. 7, para. 4 of the United Nations Convention against Corruption);

   (b) Asset and interest disclosure (art. 8, para. 5 of the United Nations Convention against Corruption).

3. Recommendations and future priorities.

4. Adoption of the report.

C. Attendance

12. The following States parties to the Convention were represented at the meeting of the Working Group: Afghanistan, Albania, Algeria, Angola, Argentina, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Belgium, Benin, Bhutan, Bolivia (Plurinational State of), Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Chile, China, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czechia, Dominican Republic, Ecuador, Egypt, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libya, Lithuania, Luxembourg, Madagascar, Malaysia, Malta, Mexico, Morocco, Mozambique, Myanmar, Namibia, Nepal, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, South Africa, South Sudan, Spain, Sri Lanka, State of Palestine, Sudan, Switzerland, Thailand, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen and Zimbabwe.

13. The European Union, a regional economic integration organization that is a party to the Convention, was represented at the meeting.

14. The following Secretariat units, funds and programmes and specialized agencies were represented by observers: United Nations Development Programme.

15. The following intergovernmental organizations were also represented: Cooperation Council of the Arab States of the Gulf, General Secretariat of the Council of the European Union, Council of Europe, Group of States against Corruption (GRECO), International Anti-Corruption Academy, International Criminal Police Organization, International Institute for Democracy and Electoral Assistance, Organization for Economic Cooperation and Development, Regional Anti-Corruption Initiative, World Customs Organization.

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III. Implementation of Conference resolutions 7/5, entitled "Promoting preventive measures against corruption", and 7/6, entitled "Follow-up to the Marrakech declaration on the prevention of corruption", and of the recommendations agreed upon by the Working Group at its meeting held in August 2017

A. Thematic discussion on preventing and managing conflicts of interest (article 7, paragraph 4, of the United Nations Convention against Corruption)

1. The Chair introduced the substantive discussion on the item, in relation to which the secretariat had prepared a background note (CAC/COSP/WG.4/2018/2). The secretariat welcomed the valuable information received from States parties, which formed the basis of the background note.

2. The secretariat stated that, in their submissions, States recognized the importance of properly managing the conflicts between the private interests of the public officials and their duty to act in the public interest and provided examples of the approaches taken to prevent corruption through employing effective conflict of interest management strategies. Many States underlined the need for clear standards of conduct in the form of legislation or codes, as well as the need to enforce those standards and ensure that public officials were aware of their duties and responsibilities. The need for proper disclosure of conflicts of interest that arose was addressed in most submissions.

3. The panellist from Montenegro discussed how the national legislation defined conflicts of interest and described the measures taken by specialized bodies to promote the implementation of the legislation, underlining the broad definition of the officials that were required to comply. It was emphasized that ad hoc disclosure of any conflict of interest was required by the public officials. Restrictions were introduced that prohibited occupying more than one position in the public service, as was a "cooling down" period of two years following the termination of a public function.

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4. The panellist from New Zealand gave a presentation on the country's approach to managing conflicts of interest, the specifics of the island setting and the influence of certain cultural aspects, such as the importance of fairness, trust and social cohesion, and voluntary compliance. He also described administrative and legislative measures taken to promote ethical conduct, including whistle-blower protection, enforcement of conflict of interest rules and training.

5. The panellist from the United States outlined the variety of institutional, administrative and legislative measures taken to address conflicts of interest in public administration as well as the approaches taken to address specific conflict of interest risks encountered by different categories of public officials. He emphasized the need for a comprehensive approach that included the enforcement of written standards, asset and interest disclosure, oversight, training and counselling.

6. The panellist from OECD gave a presentation on the approach of the organization to managing conflicts of interest and underlined the importance of public trust for building effective institutions, of clear institutional arrangements for managing conflict of interest, of accountability and of fostering a culture of integrity in the public administration.

7. During the ensuing discussion, many speakers recognized that conflicts of interest could lead to corruption and underlined that addressing conflicts of interest at all levels of government was critical for the success of the corruption prevention efforts. Speakers reported how their countries had approached the issue of the prevention and management of conflicts of interest through legislation, policy and practice. Speakers also highlighted that conflicts of interest were addressed through different means, including constitutional provisions, laws, regulations and codes of conduct.

8. Codes of conduct in particular were identified by a number of speakers as an effective measure in preventing and managing conflicts of interest, in accordance with article 8 of the Convention. Some speakers emphasized the need to enforce the provisions of codes of conduct, while others highlighted the usefulness of codes in promoting integrity and ethical values.

9. Several speakers underlined the importance of the effective implementation of legislation on conflicts of interest. In this regard, some speakers highlighted how strengthening the protection of reporting persons could promote compliance.

10. Many speakers referred to measures that have been adopted to mitigate risks associated with conflicts of interest, including restrictions on outside activities, secondary employment and financial or commercial interests. Mandatory recusals were often required in situations where a conflict of interest had been identified. In addition, speakers emphasized the need to regulate the receipt and declaration of gifts and favours, including those received during official meetings or abroad.

11. Speakers noted that specific regulations were required for different categories of public officials. Several speakers spoke of additional measures adopted in relation to public positions considered especially vulnerable to corruption, such as those related to public procurement, law enforcement, financial control or customs. One speaker underlined the importance of addressing conflicts of interest for the highest level public officials.

12. Speakers highlighted the importance of preventing and managing conflicts of interest among judges and prosecutors. In that regard, measures such as extended declarations of assets and interests for the officials and their family members, strict regimes of incompatibilities as well as mandatory recusal were identified as effective.

13. Speakers emphasized the need to extend conflict of interest provisions to the managers and staff of State-owned enterprises. The conflict of interest of diplomats was noted to be an important, though sometimes underestimated, issue.

14. Many speakers recounted how their legislation required "cooling off" periods for public officials upon leaving the public service to prevent the misuse of inside information or other conflicts of interest.

15. A speaker underlined that the mere existence of a conflict of interest was not a crime. Measures promoting the proactive disclosure and management of conflicts of interest were considered crucial to ensuring the integrity of the public service.

16. Several speakers emphasized the need to raise awareness and provide ethics guidelines and advice, as well as training to public officials. In particular, speakers described how information and communications technologies were used to provide training and ethics advice to public officials. Efforts were also made to raise the awareness of the general public and promote public participation.

17. Speakers underlined the importance of the enforcement of conflict of interest rules, as well as imposing administrative or criminal sanctions for breaches of those rules. In that regard, several speakers referred to the need for effective asset and interest declaration systems.

18. Several speakers recognized the importance of exchanging experience and good practices among States parties and called on the Secretariat to continue to provide technical assistance and to organize training events in this regard, subject to availability of resources.

19. Two speakers noted that the G20 was in the process of adopting "High-Level Principles for Preventing and Managing 'Conflict of Interest' in the Public Sector" later this year.

20. A representative of the Regional Anti-Corruption Initiative recounted the efforts of the organization to promote integrity and build national capacity to address the risks associated with conflicts of interest and corruption in South East Europe.

United Nations CAC/COSP/WG.4/2018/L.1/Add.2

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B. Thematic discussion on asset and interest disclosure systems (article 8, paragraph 5 of the United Nations Convention against Corruption)

1. The Chair introduced the substantive discussion of the item, for which the secretariat had prepared a background note (CAC/COSP/WG.4/2018/3).

2. The secretariat thanked States parties for the information they had provided in advance of the meeting which formed the basis of the background note. The secretariat emphasized the importance of asset and interest declarations as both a means for identifying conflicts of interest and a tool for supporting corruption investigations.

3. A panellist from the Russian Federation reported that the asset disclosure system and legal framework in his country allowed for early identification of corrupt practices and comparison of information provided by declarants over time. He explained that the scope of individuals needing to make asset disclosures was broad, and information about assets was made public, taking into account personal data protection. Non-provision of information or provision of misleading information could lead to sanctions or dismissal. The panellist provided an overview of the asset disclosure process in the Russian Federation from submission through verification and potential investigation and prosecution and referred to the number of cases that had led to administrative or criminal sanctions as well as asset confiscation.

4. A panellist from Argentina presented the country's asset and interest disclosure system and legal framework, as well as the steps being taken to modernize and upgrade the system to a fully electronic one. The panellist stressed the dual purpose

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of the disclosure system which was both a preventive measure as well as a means to promote the detection and investigations of corruption. She stated that Argentina would ensure that the new system was user-friendly, comprehensive, and capable of generating quality information which would improve Argentina's ability to detect and manage conflicts of interest of public officials and investigate corruption allegations. The panellist further described additional measures which Argentina had adopted to promote transparency in the public sector.

5. A panellist from Malaysia described the country's asset disclosure system and legal framework. He explained that the scope of this system was broad and aimed at curbing corruption and conflict of interest, detecting abuse of public office, ensuring integrity among public officials, and detecting illicit enrichment. He highlighted that asset disclosures were a pre-condition for confirmation of appointment and promotion of all public officials in Malaysia, and that failure to disclose assets could lead to a warning, demotion or dismissal. He also provided examples of high-level asset seizure cases in Malaysia. He finally summarized the current improvements to the asset disclosure system in Malaysia, including the requirement to submit copies of high-level public officials' disclosures to the Malaysian Anti-Corruption Commission, and improved public access to these disclosures.

6. A panellist from the Council of Europe's Group of States against Corruption (GRECO) discussed findings and recommendations related to interest and asset disclosures emerging from the fourth round of evaluation of the GRECO Member States. She noted that most of the systems shared the dual purpose of preventing conflicts of interest and monitoring wealth variations and illicit enrichment. Common trends included the expansion of the scope of declarants and disclosed assets and interests, increased level of required detail, and the rising popularity of e-declarations. Despite those positive trends, the budgets and resources of the respective oversight bodies had generally not been reinforced. In addition, statistics on sanctions and systematic impact assessments were lacking, and their impact on anti-corruption policies were unclear.

7. Many speakers described how asset and interest disclosure systems functioned in their countries. They elaborated on the purpose of these systems, which were to prevent or identify conflicts of interest, to detect potential illicit enrichment or a combination of those goals.

8. The categories of individuals that needed to make asset and interest declarations was reported to be different among countries. The importance of requiring declarations from elected officials, senior officials and officials with responsibility for finance and procurement was stressed.

9. Many speakers emphasized the need to ensure that public officials declared and disclosed the interests and wealth of their family members in addition to their own personal interests, which could strengthen the overall conflict of interest regime in countries.

10. Speakers underlined the importance of disclosing and addressing non-monetary private interests, from which a conflict with the duty to act in the public interest might arise.

11. The institutional arrangements for asset and interest declarations described by speakers varied. Some had a central agency tasked to receive disclosures, carry out verification and either directly investigate suspected breaches or report them to appropriate authorities. In others, declarations were collected by separate ministries and agencies and referred to a different authority when there was suspicion of corruption.

12. Speakers reported different practices relating to the frequency of the obligation to submit asset and interest declarations. In some countries, declarations were expected at the beginning and end of employment, while in other countries they were to be submitted periodically, generally on an annual basis. Some speakers emphasized

the importance of extending the asset and interest declarations regime to the period after public officials had left public service.

13. Speakers reported on the types of information that was to be included in asset and interest declarations. Emphasis was placed on the collection of financial information to identify both unexplained wealth and conflicts of interest.

14. Some speakers underlined that after the introduction of an electronic version of the asset and interest disclosure system, the use and effectiveness of the system had greatly improved. Others informed the Working Group that awareness-raising campaigns had increased the rate of submission of declarations by public officials.

15. Speakers highlighted that the verification of the asset and interest declarations was crucial for increased accountability and transparency. Some speakers reported that the verification of declarations was carried out for senior level officials only, while others noted that a procedure of random verifications was used. Several speakers discussed that electronic comparisons of declarations with other public data facilitated the verification process. Speakers referred to sanctions for non-compliance with disclosure requirements that were mainly administrative.

16. One speaker emphasized that examples of relevant legislation dated back to 636 A.D.

17. Challenges in ensuring effective asset and interest disclosure systems noted by speakers included identifying investments in the informal sector, sharing of information among national institutions, managing large volumes of data and adequately resourcing verification systems.

18. Several speakers recognized the value of sharing good practices and expressed the need for technical assistance in order to strengthen asset and interest disclosure systems and the verification of declarations in their countries.

19. The representative of WCO underlined the importance of promoting integrity in customs authorities which the Organization supported through dialogue and the development of tools.

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III. Recommendations and future priorities

1. The Chair introduced the discussion on recommendations and future priorities and drew the attention to the mandate of the Working Group to advise and assist the Conference.

2. The secretariat presented an update on the implementation of resolution 7/5, entitled "Promoting preventive measures against corruption", and resolution 7/6, entitled "Follow-up to the Marrakech declaration on the prevention of corruption".

3. In fulfilment of its role as an international observatory for good practices in the prevention of corruption, the secretariat continued to collect information from States parties on their implementation of chapter II of the Convention and to update the website of the Working Group, including its thematic pages.

4. UNODC had supported the development of various anti-corruption policies or strategies in 10 countries and policy assessments in four countries. Comments had been provided on 17 proposed laws or regulations focused on or including corruption prevention provisions, three of which had been adopted during the reporting period. Assistance had also been provided on balancing prevention and sanctions of conflict of interest regimes and on the implementation of asset declaration systems. In addition, three regional events on whistle-blower protection had been held in the Pacific, South Asia and East Africa.

5. UNODC continued the development of relevant teaching modules and curricula to support educational systems at all levels, and supported measures to engage young people in the prevention and reporting of corruption. In addition, UNODC supported efforts to strengthen investigative journalism, the role of parliamentarians in the fight against corruption, integrity in sport and measures to counter corruption in connection to environmental and wildlife crime.

6. During the reporting period, UNODC had provided assistance and training to various anti-corruption bodies. UNODC had also launched the Global Judicial Integrity Network following consultations with approximately 4,000 judges and other relevant justice sector stakeholders, and continued to develop an e-learning course in judicial ethics. Integrity measures had been developed and training provided to prosecutors, law enforcement bodies and prison officials.

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7. Several speakers reported on the different measures they had taken to implement the various provisions of chapter II of the Convention to strengthen the prevention of corruption. Speakers noted measures taken to prevent money-laundering; strengthen audit and internal control measures, as well as public procurement; increase transparency and access to public information; and develop new codes of conduct. One speaker noted the challenges of strengthening asset and interest disclosure systems while balancing measures to protect the privacy and confidentiality of personal data and requested the Secretariat to consider providing guidance or facilitating the exchange of experiences on that topic. One speaker also referred to the financial support provided by its country to the Secretariat to provide technical assistance on prevention of corruption, in particular the Anti-Corruption Academic (ACAD) initiative.

8. The Working Group acknowledged the progress that had been made by States parties in relation to preventing and managing conflicts of interest and underlined the need to maintain those efforts. The Working Group encouraged States to prioritize initiatives to manage conflicts of interest and to support each other in the development and implementation of such initiatives, including through the exchange of good practices and experiences.

9. The Working Group took note of the breadth of approaches and measures that had been taken to strengthen integrity in the public administration by introducing asset and interest disclosure systems, reflected in the submissions by States ahead of the meeting. Similarities were noted across many jurisdictions in terms of goals of the system and its main elements. In addition, a number of innovative approaches were highlighted that could be drawn upon by other States parties considering such measures.

10. The Working Group recommended that the topic of the prevention of corruption in the private sector under article 12 of the Convention be included in the workplan of the Group. The discussion could include measures to prevent the solicitation of bribes, information on private sector compliance programmes, book-keeping standards and voluntary self-reporting and could include representatives from the private sector as panellists.

11. The Working Group also recommended that the topic of conflicts of interest be further explored by the Group, including by considering the interlinkages between conflicts of interest and illicit enrichment, asset and interest disclosure systems and reporting persons. In addition, it was suggested that this topic also be considered in the context of balancing such disclosures with measures taken to protect the privacy and confidentiality of personal data.

12. The Working Group further recommended that the topics of the recruitment, hiring and promotion of public officials under article 7, and measures to strengthen the objectivity and transparency of public procurement under article 9 be considered in the future.

13. The Working Group encouraged States parties to continue to strengthen the exchange of information and good practices on the approaches and measures taken to ensure effective verification of the asset and interest declarations and to strengthen the accountability of public officials.

14. The Working Group requested that UNODC continue its efforts, subject to the availability of extrabudgetary resources, to support States parties in the implementation of the relevant articles of the Convention. The Working Group further requested that UNODC continue its efforts to gather information on good practices related to preventing and managing conflicts of interest and to the introduction and functioning of asset and interest disclosure systems, particularly in the context of the second cycle of the Implementation Review Mechanism.

15. The Working Group recalled resolution 7/6, which requested that the Working Group hold at least two meetings before the eighth session of the Conference of the States Parties, and requested UNODC, subject to the availability of extrabudgetary

resources, to continue its work as an international observatory, including by updating the thematic website of the Working Group with relevant information. In addition, the Working Group recalled resolution 7/5 identifying as the topic for the Working Group's meeting in 2019 lessons learned in the development, evaluation and impact of anti-corruption strategies (art. 5).